

1
2
3
4
5
6 UNITED STATES DISTRICT COURT
7 WESTERN DISTRICT OF WASHINGTON
8 AT SEATTLE

9 UNITED STATES OF AMERICA,

10 Plaintiff,

11 v.

12 EDGAR WILLIAM ARTEAGA-GIRON

13 Defendant.

No. CR02-162L

ORDER ON LIMITED REMAND

14 This matter comes before the Court as a result of a LIMITED REMAND of the Ninth
15 Circuit Court of Appeals pursuant to United States v. Ameline, 409 F.3d 1073 (9th Cir.
16 2005) (en banc). In accord with the limited remand procedures adopted in United States v.
17 Ameline, each party may file a supplemental pleading addressing the sole question of
18 whether the Court's sentencing decision "would have been materially different had the Judge
19 been aware that the Guidelines were advisory." Ameline, 409 F.3d at 1079. The parties
20 shall limit their supplemental pleadings to information available as of the original sentencing
21 date and such pleadings, not to exceed 10 pages, shall be filed by November 23, 2005. In the
22 supplemental pleadings, the parties are permitted to advance sentencing arguments
23 previously barred or deemed "not ordinarily relevant" under pre-Booker guideline analysis.
24 See United States v. Booker, 125 S. Ct. 738 (2005). Counsel should be mindful that the
25
26

ORDER ON LIMITED REMAND

1 question at this point is not whether the defendant should have received a different sentence.

2 Those questions may be addressed if a resentencing is ordered.

3 If the Court determines that resentencing is warranted, the Court will vacate the
4 sentence and schedule a new sentencing hearing with the defendant present. If the Court
5 concludes that the sentencing decision would not have been materially different, the Court
6 will enter an order denying resentencing with an appropriate explanation.

7 The Clerk is directed to note the consideration of the LIMITED REMAND on the
8 Court's motion calendar for November 23, 2005.

9 IT IS SO ORDERED.

10
11 DATED this 2nd day of November, 2005.

12
13
14 

15 Robert S. Lasnik
16 United States District Judge

17
18
19
20
21
22
23
24
25
26
ORDER ON LIMITED REMAND